



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

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*86 Chambers Street  
New York, New York 10007*

January 2, 2014

By email and ECF

The Honorable Katherine B. Forrest  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *In re WorldCom, Inc.*, No. 11 Civ. 5463 (KBF)

Dear Judge Forrest:

This Office represents the Internal Revenue Service (the “IRS” or the “government”) in the above-named action. We write respectfully in response to the debtors’ motion for reconsideration of this Court’s order of December 11, 2013, directing the government to submit a proposed judgment by January 6, 2014.

The government joins the debtors’ request for a remand of this action to the bankruptcy court, albeit for different reasons. Debtors seek a remand so that the parties can litigate the amount of the IRS’s claim and other unspecified defenses debtors may assert. The government does not concede that there are any issues remaining to litigate, or that the debtors have effectively reserved any rights to raise any defenses to the validity or amount of the IRS’s request for payment.

Nevertheless, the government agrees that this Court’s role does not include entry of judgment, and that remand to the bankruptcy court is appropriate. This Court has jurisdiction over this matter under 28 U.S.C. § 158(a), i.e., “to hear appeals” from the bankruptcy court’s orders and judgments. Because this Court’s jurisdiction is exclusively appellate, the proper course upon determination of the issue that has been appealed is to remand to the bankruptcy court, which has the power to “enter appropriate orders and judgments.” 28 U.S.C. § 157(b)(1); *see* Amended Standing Order of Reference, No. 12 Misc. 32 (S.D.N.Y. Jan. 31, 2012), *available*

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at [http://www.nysd.uscourts.gov/rules/StandingOrder\\_OrderReference\\_12mc32.pdf](http://www.nysd.uscourts.gov/rules/StandingOrder_OrderReference_12mc32.pdf) (referring all bankruptcy matters to the bankruptcy court pursuant to § 157(a)).<sup>1</sup>

Accordingly, the government respectfully joins debtors' request that this Court's order directing the submission of a proposed judgment be vacated, and the matter be remanded to the bankruptcy court for further proceedings.

Thank you for your consideration.

Respectfully,

PREET BHARARA  
United States Attorney

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<sup>1</sup> The court of appeals in this case decreed that "the case is remanded for further proceedings consistent with this Opinion," without specifying to which court the case was remanded. *In re WorldCom, Inc.*, 723 F.3d 346, 365 (2d Cir. 2013) (capitalization omitted). Generally, when the court of appeals does indicate the court to receive the remand following an appeal from a district court's appellate decision under 28 U.S.C. § 158(a), it has either remanded to the district court with instructions to remand to the bankruptcy court, e.g., *In re Zarnel*, 619 F.3d 156 (2d Cir. 2010); *In re WestPoint Stevens*, 600 F.3d 231 (2d Cir. 2010); *In re Ames Dep't Stores, Inc.*, 582 F.3d 422 (2d Cir. 2009); *Kuhl v. United States*, 467 F.3d 145 (2d Cir. 2006); or remanded directly to the bankruptcy court, e.g., *In re Megan-Racine Associates, Inc.*, 102 F.3d 671 (2d Cir. 1996); *In re Persky*, 893 F.2d 15 (2d Cir. 1989).